

STATE OF INDIANA)
)
)SS
COUNTY OF MARION)

IN THE PROBATE COURT
OF MARION COUNTY

TRUST DOCKET T-62, PAGE 11

IN THE MATTER OF THE)
HUMANE SOCIETY OF INDIANAPOLIS,)
INC., TRUSTEE U/WILL OF MARY)
POWELL CRUME, Deceased.)

FILED

7 MAY 26 2004
Charles J. Deiter
JUDGE

PETITION TO ALLOW PLEDGING OF CHARITABLE TRUST ASSETS

Comes now the Humane Society of Indianapolis, Inc. (the "Humane Society"), the Trustee (the "Trustee") of the Mary Powell Crume Trust (the "Trust"), by its President, Brent A. Bolick, who affirms under penalties of perjury that the following representations are true to the best of his knowledge and belief:

1. He is the President of the Board of Directors of the Humane Society of Indianapolis, Inc.
2. The Trust was established by Mary Powell Crume under Item VI of her Last Will and Testament for the benefit of the Humane Society of Indianapolis, Inc., for the purpose of providing relief for animals in Indianapolis.
3. The Trust exists for a benevolent public purpose, namely, the relief and care of animals in Indianapolis, and as such the Attorney General of the State of Indiana is the representative of the public's interest in the Trust.
4. On May 25, 1962, this Court docketed the Trust at Trust Docket 62, page 11, and as a result, this Court has continuing jurisdiction over the Trust.

5. Several issues regarding the interpretation of the terms of the Trust and utilization of the Trust income and principal have come before the Court over the course of the past forty-two (42) years.

6. This Court has previously interpreted the terms of the Trust as allowing the use of principal and income to pay for buildings, equipment, salaries or any expenses, provided that the purpose of such expenditure was ultimately for the relief and care of the animals which come under the care and protection of the Humane Society. (A copy of that Order of this Court is attached hereto and marked "Exhibit A" and incorporated herein by this reference.)

7. The Trust has principal assets totaling Three Million Four Hundred Nineteen Thousand Forty Dollars (\$3,419,040.00), as of January 31, 2004. These funds are being held by National City Bank as Depositary Trustee.

8. The Humane Society does not have sufficient funds from donations and interest on investments to continue daily operations of carrying out its purposes of providing care and relief for the animals surrendered to it.

9. In order to continue to carry out its purpose, it is necessary for the Humane Society to obtain an operating line of credit (the "LOC"). One requirement of the lending institution is that some form of collateral be pledged to secure the LOC.

10. The Trustee requests that this Court allow the pledging as collateral of ninety percent (90%) of the Trust corpus to secure the contemplated LOC needed to allow the Humane Society to continue to provide for the care of the thousands of animals surrendered to it each and every year. The LOC would not exceed fifty-percent (50%) of the Trust corpus and would be drawn on and repaid in amounts as approved by the Board of Directors of the Humane Society from time to time.

11. The Humane Society anticipates that through completed and planned cost-savings measures and fundraising activities, it will pay the interest on the LOC, as well as any principal borrowed, over the course of the next several years, and that the Trust corpus will remain intact.

12. The utilization of a portion of the Trust as collateral for LOC was not contemplated by the Settlor at the time the Trust was established, but is within the intent of the Settlor to provide funds for the maintenance and care of the animals surrendered to the Humane Society. If the Humane Society does not have sufficient funds to continue its daily operations in maintaining and caring for all the animals surrendered to it, and thus is forced to cease operations, the primary purpose for which Mary Powell Crume established the Trust will be defeated and a significant additional burden to carry out these purposes will fall upon the governments of the City of Indianapolis and Marion County.

13. I.C. 30-4-3-26 provides that the Court shall direct or permit the trustee to deviate from the terms of the trust, if, owing to circumstances not known to the Settlor and not anticipated by the Settlor, strict compliance would defeat or substantially impair the accomplishment of the purposes of the trust. This Code section further provides that if it is necessary to carry out the purposes of the trust, the Court may direct or permit the trustee to do acts which are not specifically authorized or prohibited by the terms of the trust.

14. The Crume Trust does not specifically allow or prohibit the collateralization of Trust assets to secure an operating line of credit.

15. The Board of Directors of the Humane Society has reviewed the financial condition of the Humane Society as well as the Trust provisions and has requested that the President of the Humane Society seek this Court's approval for pledging a portion of the Trust assets as collateral for an operating line of credit to be extended to the Humane Society to allow it to continue its operations.

WHEREFORE, the undersigned, Humane Society of Indianapolis, Inc., Trustee, respectfully requests that the Court:

1. Fix a time for hearing on this Petition to Allow Pledging of Charitable Trust Assets;
2. Direct that notice of such hearing be given to the Attorney General of the State of Indiana as representative of the public interest in the Trust; and
3. After such hearing, enter an Order allowing the Trustee to pledge Trust assets to secure an operating line of credit as requested in this Petition, and for all other relief which is proper in the premises.

Respectfully submitted,

HUMANE SOCIETY OF INDIANAPOLIS, INC.,
Trustee

By: 

Brent A. Bolick,

President of the Board of Directors

This Petition Prepared By:

Peter H. Donahoe, Attorney
Hill, Fulwider, McDowell, Funk & Matthews, P.C.
One Indiana Square, Suite 2000
Indianapolis, IN 46204
(317) 488-2000
Attorney Number 4794-49